

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Request for Waiver and Appeal	)	
60 Day Appeal Deadline	)	CC Docket No. 02-6
McAlester Public Schools	)	CC Docket No. 13-184
McAlester, Oklahoma	)	
	)	
FCC Form 471 # 171032653	)	
	)	
	)	
	)	

**MCALISTER PUBLIC SCHOOLS I-80**

**MCALISTER, OKLAHOMA**

August 13, 2018

Deborah Sovereign

Kellogg & Sovereign Consulting, LLC  
1101 Stadium Drive  
Ada, OK 74820  
(580) 332-1444  
(580) 332-2532 (facsimile)  
Email: dsovereign@kelloggllc.com

On behalf of McAlester Public Schools, McAlester, Oklahoma, BEN 140229, I am respectfully requesting a waiver of the 60-day deadline for filing an appeal with USAC.

Applicant Name:	McAlester Public Schools I-80
Billed Entity Number	140229
Service Provider:	OneNet (Oklahoma State Regents)
SPIN:	143015254
Funding Year:	2017
Form 471 Application Number	171032653
Funding Request Number	1799071802
Funding Letter Dated	11/3/2017
Form 486 Number	84142
Form 486 Dated	11/14/2017

### **Discussion**

McAlester Public Schools I-80 ("applicant" or "District") was transitioning service by upgrading bandwidth during the 2017-18 funding year. During PIA review, the applicant provided the reviewer with a change of the service start date from July 1, 2017 to October 1, 2017. The funding letter issued on November 3, 2017 correctly showed the service start date for FRN 1799071802 as October 1, 2017.

On November 14, 2017, the applicant filed the FCC Form 486 for FRN 1799071802 along with the other funding requests funded on FCC Form 471 # 171032653. The applicant entered 7/1/2017 as the service start date instead of 10/1/2017. The Form 486 notification letter shows the Form 486 for FRN 1799071802 was approved but with the service start date modified to 10/01/2017.

Even though the Form 486 was approved, the service provider was unable to successfully process their invoices with USAC so they contacted the applicant to determine the problem.

On December 29, 2017, the applicant submitted a case with USAC. The USAC response was "during my investigation I was informed that your Form 486 # 84142 is in fact approved, the "In Review" status is an error. We are aware that not all SSDs are appearing on the FRN Status tool, but this will not prevent you from invoicing. The approved FCC Form 486 successfully migrated into the invoicing system. We highly recommend you begin invoicing at your earliest convince. Due to this update I will be closing this case. If you have any questions or believe this case was closed in error, please contact CSB at (888)203-8100."

Even though the USAC reviewer had assured the applicant that there was no problem, the service provider was still unsuccessful in getting their invoice processed for FRN 1799071802.

The applicant reviewed the funding online in EPC (USAC Erate Productivity Center) and could see that the actual problem appeared to be that the Form 486 SSD field for FRN 1799071802 was blank. Even though it should have been modified to 10/1/2017 per the Form 486 notification letter, the date field was blank.

The applicant made various inquiries with USAC in February, May and June 2018.

On August 8, the applicant escalated the issue in an email to upper management with USAC and received the following response:

**From:** Inna Malashenok <Inna.Malashenok@usac.org>  
**Sent:** Thursday, August 09, 2018 8:12 AM  
**To:** Deborah Sovereign <dsovereign@kelloggllc.com>  
**Subject:** McAlester 2017 Form 486 issue pending since December 2017

Hello Deborah,

I am following up on your e-mail to Catriona Ayer regarding FCC Form 486 #84142. It appears that FRN 1799071802 was incorrectly dismissed during review because a service start date of 7/1/2017 was entered instead of 10/1/2017 as it was filed on the FCC Form 471. The dismissal status of this FRN is preventing you from invoicing. Since the 60 day appeal window has now closed you will be need to file an deadline waiver with the FCC. **During your waiver request you can include this e-mail to show that this was a reviewer error. [emphasis added]**

I apologize for the confusion in your customer service cases, we did not have access to the reviewer comments.

The Commission has allowed late-filed appeals when USAC committed an error<sup>1</sup>, and in this situation, USAC has specifically instructed the applicant to seek the waiver from the FCC and to reference the “reviewer error”.

### **Conclusion:**

Since the 60-day deadline to file an appeal on the Form 486 service start date has passed, the applicant needs a waiver in order for USAC to be able to fix the service start date on FRN 1799071802. The applicant has been specifically instructed by USAC to file the waiver with the FCC and to include the above email to show this was a reviewer error.

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<sup>1</sup> See *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket Nos. 02-60, Public Notice, DA **17-1217**, n.9 (WCB Dec. 29, 2017) (York County School District) ((citing *Requests for Review and/or Requests for Waiver of Decisions of the Universal Service Administrator by Animas School District 6 et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 16903, 16905, para. 4 (WCB 2011) (granting petitioners waivers of [the] filing deadline for appeals because their late-filed appeal would never have been necessary absent an error on the part of USAC)).

Therefore, we are respectfully requesting the waiver of the 60-day appeal deadline for FRN 1799071802.

Respectfully submitted,

A handwritten signature in blue ink, reading "Deborah J. Sovereign". The signature is fluid and cursive, with the first name "Deborah" and last name "Sovereign" clearly legible.

Deborah J. Sovereign  
Consultant

Attachment:

- A. Letter of Agency
- B. Detail of 486 Service Start Date issue

## **ATTACHMENT A:**

DETAIL OF FORM 486 SERVICE START DATE ISSUE

**McAlester Public Schools, BEN 140229.**

Form 486 #84142 was filed 11/14/2017.

The service start date per the FCC Form 471 was October 1, 2017. The correct service start date is October 1, 2017.

When the Form 486 was filed the service start date was keyed in July 1, 2017. The Form 486 notification letter correctly showed the adjusted date of October 1, 2017.

However, the system somehow has changed the SSD field to blank (no date).

**The Form 486 #84142 notification letter showed approved service start date of 10/1/2017:**

Funding Request Number (FRN):	Funding Request Nickname:	Form 471 Application Number:	Service Provider Name:	Service Provider Identification	Billing Account Number:	Actual Service Start Date:	Approved Service Start Date:	Service Start Date Change Indicator:	Service Start Date Change Explanation:	Current Funding Commitment:
1799071786	1 - Voice Service	171032653	Southwestern Be	143004662	918 423 0356 320	07/01/2017	07/01/2017	N		13,381.66
1799071792	2 - Long Distance	171032653	SBC Long Distance	143008823	819 654 072, 918	07/01/2017	07/01/2017	N		1,768.60
1799071802	3 - Internet Access UPG 1.5 Gbps	171032653	OneNet (Oklahon	143015254	10230 INT 1.5 Gb	07/01/2017	10/01/2017	Y	APPLICANT MODIFIED	57,348.90
1799071815	4 - Internet Access 750 Mbps	171032653	OneNet (Oklahon	143015254	10230 INT EXT 75	07/01/2017	07/01/2017	N		12,822.30
1799071865	5 - WAN 10 Gbps	171032653	SkyRider Commu	143031192	MCAL WAN 16-2	07/01/2017	07/01/2017	N		136,884.60
1799071905	6 - WAN 1 Gbps/10 Gbps	171032653	SkyRider Commu	143031192	MCAL WAN 10 G	07/01/2017	07/01/2017	N		139,395.16

**A current display of the Form 486 # 84142 shows it is "in Review"**

Form Number	Nickname	Funding Year	Status
84142	MCAL_486C1_1718	2017	In Review

This is how the 486 looks today:

▼FCC Form 486 Form Details

View Status (+)

Funding Year 2017

Submitting Organization

MCALESTER PUBLIC SCHOOLS I-80 (BEN: 140229)

Created By

Riley Harpole

Created On

11/14/2017 5:44 PM EST

▼Billed Entity Information

MCALESTER PUBLIC SCHOOLS I-80

200 E Adams

MCALESTER, OK 74501

918-423-4771

mtindle@mcalester.k12.ok.us

Billed Entity Number: 140229

FCC Registration Number: 0001690163

Applicant Type: School District

▼Main Contact

Name Riley Harpole

Phone Number 580-332-1444

Email riley.harpole@kelloggllc.com

▼Service Information

FRN Number	Application Number	FRN Nickname	Category of Service	SPIN	Service Provider	Actual Service Start Date	Approved Service Start Date
1799071786	171032653	1 - Voice Service	Category 1	143004662	Southwestern Bell Telephone Company	7/1/2017	7/1/2017
1799071792	171032653	2 - Long Distance	Category 1	143008823	SBC Long Distance, LLC.	7/1/2017	7/1/2017
1799071802	171032653	3 - Internet Access UPG 1.5 Gbps	Category 1	143015254	OneNet (Oklahoma State Regents)	7/1/2017	
1799071815	171032653	4 - Internet Access 750 Mbps	Category 1	143015254	OneNet (Oklahoma State Regents)	7/1/2017	7/1/2017
1799071865	171032653	5 - WAN 10 Gbps	Category 1	143031192	SkyRider Communications, Inc.	7/1/2017	7/1/2017

The Approved service start date for FRN 1799071802 is blank. It should be 10/1/2017.

PIA modification shows 10/01/2017 as the corrected service start date:

Records / FCC Forms 471

## MCAL 2017 - C1 - #171032653

[RESPOND TO INQUIRIES](#) [APPLY SUMMER OR WINTER DEF...](#)

[Summary](#) [Funding Requests](#) [Review Inquiries](#) [Connectivity Information](#) [Discount Calculation](#) [Entity Information](#) [News](#) [Related Actions](#)

### Pending Inquiries

Read	Notice	Name	Outreach Type	Assigned By	Title	Phone #	Assigned Date	Due Date	Extn.	Status
No Pending Inquiries.										

### Submitted Inquiries

Name	Outreach Type	Answered By	Assigned Date	Answered Date
<a href="#">Duplicate Services</a>	Modification Notification	Riley Harpole	10/20/2017 1:05 PM EDT	10/22/2017 1:59 PM EDT
<a href="#">Duplicate Services</a>	Modification Notification	Riley Harpole	10/20/2017 8:34 AM EDT	10/20/2017 11:31 AM EDT

[Duplicate Services](#)

Issue:

We intend to modify the following fields on the Funding Requests section of your FCC Form 471 application 171032653, FRN 1799071802 and 179907181:

FRN/Line Item #	Modified Field Name
1799071815	Service End Date
1799071802	Service Start Date

Original Value	New Value
06/30/2018	09/30/2017
07/01/2017	10/01/2017

If the modifications listed above should not be performed and you have alternative information, please provide your supporting documentation.

If you would like to provide any additional explanation to support your position, type your explanation and attach the explanation and/or documentation into your response by using the Add Document button. If you agree with the proposed action, click the "Submit" button to clear this item from your Pending Inquiries.





**The applicant has been trying since 12/29/2017 (See case # 213339) to get this issue resolved.**

The USAC case response dated 1/3/2018 was: "During my investigation I was informed that your Form 486 # 84142 is in fact approved, the "In Review" status is an error. We are aware that not all SSDs are appearing on the FRN Status tool, but this will not prevent you from invoicing. The approved FCC Form 486 successfully migrated into the invoicing system. We highly recommend you begin invoicing at your earliest convenience. Due to this update I will be closing this case."

Also see Case # 238152 created 5/25/2018. The last response from USAC dated 6/19/2018 stated that the issue was escalated to upper management.

**ATTACHMENT B:**

LETTER OF AGENCY



**"Engaging Minds, Inspiring Hearts, Pursuing Excellence"**

## **E-RATE LETTER OF AGENCY 2017-18**

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**APPLICANT: McAlester Public Schools**

**USAC Name: McAlester Public Schools I-80**

**USAC Billed Entity Number: 140229**

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("Applicant") hereby authorizes Kellogg & Sovereign® Consulting, LLC or its designated agents or employees ("KSLLC") to act on our behalf during the term of this authorization.

Although not exclusive, KSLLC is specifically authorized to conduct the following actions on behalf of the Applicant:

- ♦ Prepare and submit Federal Communications Commission ("FCC") Forms 470, 471, 486, 500, 472 and other forms requested by the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC")
- ♦ Prepare and submit documentation to USAC or the FCC in compliance with E-Rate program rules and regulations.
- ♦ Act as our agent in working with representatives of the FCC or USAC to provide information as requested during application review, selective reviews, site visits, audits and any other activity associated with review of our applications.
- ♦ Prepare Requests for Proposal ("RFPs") to be posted to the KSLLC website and distributed to appropriate service providers.
- ♦ Provide information to service providers as needed to clarify information in RFPs and Forms 470.
- ♦ Solicit and receive proposals from service providers for requested services.
- ♦ Prepare comparisons of proposals from service providers.
- ♦ Complete contracts for eligible E-Rate services as specifically directed by the Applicant's authorized representative.

**I also understand that in submitting these forms on our behalf, representatives of Kellogg & Sovereign® Consulting, LLC are making certifications for our school district. By signing this letter of agency under oath, I make the following certifications as required by the FCC<sup>190</sup>.**

I certify that the schools I represent are eligible for support because they are schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38), that do not operate as for-profit businesses and do not have endowments exceeding \$50 million.

I certify that the entity(ies) I represent or the entities listed on our applications will secure access, separately or through this program, to all of the resources, including computers, training, software, maintenance, internal connections, and electrical capacity necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that I have considered what financial resources should be available to cover these costs. I certify that the entities I represent or the entities to be listed on our application will secure access to all of the resources necessary to pay the discounted charges for eligible services from funds to which access will be secured in the funding year. I certify that the Billed Entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).

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<sup>190</sup> Certifications per FCC Forms 470, 471 and 486. <http://www.usac.org/sl/tools/forms.aspx> (OMB Control No. 3060-0806 FCC Forms 470 and 471, OMB Control No. 3060-0853 FCC Form 486).

<sup>1</sup>Modernizing the E-rate Program for Schools and Libraries, WC Docket No. 13-184, E-Rate Modernization Order, FCC 14-99A1 Released on 7/23/2014 at p.125-128 . [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2014/db0723/FCC-14-99A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0723/FCC-14-99A1.pdf) (last visited July 31, 2014).

I authorize Kellogg & Sovereign® Consulting, LLC to post my Form 470 and, if applicable, Request for Proposal (RFP). Unless I am purchasing eligible services exempt from the competitive bidding requirement, I certify that a FCC Form 470 will be posted and that any related RFP will be made available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the most cost-effective service offering will be selected, with price being the primary factor considered, and the most cost-effective means of meeting educational needs and technology goals.

I certify that I will review all applicable FCC, state, and local procurement/competitive bidding requirements and that the entity or entities I represent will comply with them.

I certify that the services the applicant purchases at discounts provided by 47 U.S.C. § 254 will be used primarily for educational purposes, see 47 C.F.R. § 54.500 and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. § 54.513. Additionally, I certify that the entity or entities listed on our applications have or will not have received anything of value or a promise of anything of value, other than services and equipment sought by means of forms filed with the Schools & Libraries Division, from the service provider, or any representative or agent thereof or any consultant in connection with our request for services.

I certify that I and the entity(ies) I represent will comply with all program rules, including recordkeeping requirements, and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. There will be signed contracts or other legally binding agreements covering all of the services listed on our FCC Forms 471 except for those services provided under non-contracted tariffed or month-to-month arrangements. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.

I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

I certify that I will retain required documents for a period of at least **10 years** (or whatever retention period is required by the rules in effect at the time of this certification) after the later of the last day of the applicable funding year or the service delivery deadline for the associated funding request. I acknowledge that I may be audited pursuant to participation in the schools and libraries program. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to USAC.

I certify that I am authorized to order supported services for the eligible entity(ies) I represent. I certify that I am authorized to sign this Letter of Agency and all information to be provided to Kellogg & Sovereign® Consulting, LLC for the E-Rate submission will be true and correct to the best of my knowledge, that the entities that are receiving discounts pursuant to the associated applications have complied with the terms, conditions, and purposes of this program, that no kickbacks were or will be paid to anyone and that false statements on FCC forms can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.

I acknowledge that all pricing and technology infrastructure information submitted as part of an FCC Form 471 shall be treated as public and non-confidential by the Administrator unless the applicant specifies a statute, rule, or other restriction, such as a court order or an existing contract limitation barring public release of the information. I certify that contracts and other agreements will not prohibit disclosure of pricing or technology infrastructure information.

I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities that will be listed on our application, or any person associated in any way with my entity and/or the entities listed on our application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.

I certify that if any of the funding requests listed on our FCC forms are for discounts for products or services that contain both eligible and ineligible components that Kellogg & Sovereign® Consulting, LLC on our behalf will allocate the cost of the contract to eligible and ineligible components as required by the Commission's rules at 47 C.F. R. § 54.504.

I certify that the non-discount portion of the costs for eligible services will not be paid by the service provider. The pre-discount costs of eligible services featured on the applicable FCC forms will be net of any rebates or discounts offered by the service provider. I acknowledge that, for the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.

I certify that prior to the commencement of service, the school(s) I represent will be in compliance with the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l).

I certify that I am authorized to sign this Letter of Agency and, to the best of my knowledge, information and belief, all information provided to KSLLC for E-Rate submission is true. If any of the statements made above are incorrect, fraudulent or misleading, the undersigned and their institution agrees to indemnify, as allowed by state law, KSLLC, its members, employees and agents of any and all liability, legal fees or actions that may arise from the incorrect, fraudulent or misleading statement(s).

Applicant Name: McAlester Public Schools

Mailing Address, City, ST, Zip: PO Box 1027 McAlester OK 74502

Signature of Authorized Person: Rf Hughes Date: 8-24-15

Printed Name of Authorized Person: \_\_\_\_\_ Title: \_\_\_\_\_

*This authorization shall remain in effect until KSLLC is notified of its cancellation in writing via certified mail.*

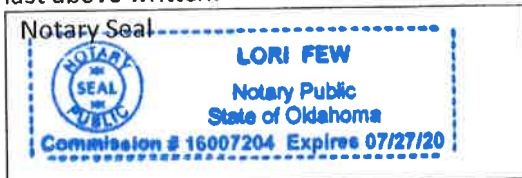
## SWORN AFFIDAVIT

STATE OF Oklahoma )  
COUNTY OF Pittsburg ) ss.

On this 24 day of August, 2016, before me, the subscriber, a Notary Public in and for said State and

County, personally appeared Randy Hughes, known or identified to me to be the person whose name is subscribed to this Letter of Agency, and acknowledged that he/she is authorized on behalf of said entity/entities to execute all documents pertaining hereto and acknowledged to me that he/she executed the same as his/her voluntary act and deed on behalf of said organization.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal in said State and County on the day and year last above written.



Lori Few  
(Signature of Notary)

My Commission Expires: 7-27-20